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UNCLAS SECTION 01 OF 02 TEGUCIGALPA 002109

SIPDIS

FOR DS/OFM/VTC/TC - W. NEMETH

INFO WHA/EX/PMO AND WHA/CEN

E.O. 12958: N/A

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SUBJECT: HONDURAN SALES TAX -- FULL RECIPROCITY STILL ELUSIVE FOR U.S. MISSION

REF: A) 02 TEGUCIGALPA 01076

- B) 02 TEGUCIGALPA 01621
- C) 02 TEGUCIGALPA 02034
- D) 02 TEGUCIGALPA 02443
- E) 02 TEGUCIGALPA 03378

1. SUMMARY: MORE THAN A YEAR AFTER HONDURANS CHANGED ITS SALES TAX LAWS AND REVOKED LOCAL TAX CARDS FOR THE DIPLOMATIC COMMUNITY, EMBASSY TEGUCIGALPA IS STILL STRUGGLING WITH LOCAL AUTHORITIES TO ESTABLISH RECIPROCAL TAX TREATMENT FOR THE U.S. MISSION. THE JUNE 2002 TAX LAW PROMPTED REVOCATION OF HONDURAN TAX CARDS IN WASHINGTON. IN DECEMBER 2002 POST RECOMMENDED THAT DS/OFM RESTORE FULL PRIVILEGES TO HONDURAN DIPLOMATS, BASED ON WHAT WE INTERPRETED AS A GOOD FAITH EFFORT TO PROVIDE RECIPROCAL TREATMENT IN TEGUCIGALPA. AFTER ANOTHER NINE MONTHS OF MINOR CHANGES AND ADDITIONAL ADJUSTMENTS, FULL SALES TAX RELIEF IS STILL UNAVAILABLE TO THE U.S. MISSION AND ITS EMPLOYEES. IN ADDITION, THE GOVERNMENT OF HONDURAS HAS DECIDED TO DISCONTINUE EXCISE TAX EXEMPTIONS ON THE SALE OF GASOLINE TO THE U.S. MISSION, TO THE TUNE OF OVER 92,000 DOLLARS PER YEAR IN ADDITIONAL COSTS. GASOLINE TAX IS THE SUBJECT OF A SEPARATE MESSAGE TO DS/OFM. IN THE INTEREST OF OBTAINING BETTER COOPERATION FROM LOCAL TAX AUTHORITIES IN TEGUCIGALPA, DS/OFM SHOULD CONSIDER ADJUSTING ITS TAX TREATMENT OF HONDURAN DIPLOMATS IN THE UNITED STATES. (END SUMMARY)

2. BACKGROUND: ON JUNE 5, 2002, A NEW HONDURAN LAW REVOKED ALL POINT-OF-SALE TAX EXEMPTION CARDS, INCLUDING THOSE FOR FOREIGN DIPLOMATS AND DIPLOMATIC MISSIONS. THE LAW TOOK EFFECT IMMEDIATELY, BEFORE A WORKABLE REPLACEMENT SYSTEM COULD BE DEVELOPED AND IMPLEMENTED. REFS A AND B DESCRIBE THE NEW LAW, WHICH ALSO INCLUDED RESTRICTIONS ON VEHICLE IMPORTATION AND USE. FOR THE PAST FIFTEEN MONTHS EMBASSY AND AID ADMINISTRATIVE STAFF HAVE WORKED DILIGENTLY WITH THE MINISTRY OF FOREIGN AFFAIRS (MFA) AND THE HONDURAN TAX DIRECTORATE (DEI) TO RE-ESTABLISH TAX RELIEF MECHANISMS FOR THE U.S. MISSION AND ITS STAFF. MOST OF THE CONTROVERSY CENTERS AROUND THE 12 PERCENT SALES TAX, BUT THERE ARE OTHER LOCAL TAXES INVOLVED, E.G., HOTEL TAX, AIRPORT TAX AND GASOLINE TAX.

3. INITIAL RESPONSE: SEVERAL WEEKS AFTER THE HONDURAN LAW WAS PASSED AND IMPLEMENTED, DS/OFM REVOKED HONDURAN TAX CARDS IN THE UNITED STATES PENDING A FAVORABLE RESOLUTION IN HONDURAS. IN DECEMBER 2002 EMBASSY TEGUCIGALPA RECOMMENDED RESTORATION OF THE HONDURAN TAX CARDS IN THE U.S. WE BELIEVED AT THE TIME THAT THE HONDURAN GOVERNMENT WAS MAKING A GOOD FAITH EFFORT TO RESTORE TAX EXEMPTIONS IN TEGUCIGALPA. THE MFA AND DEI HAD IMPLEMENTED A SYSTEM OF TAX COUPON BOOKS FOR DIPLOMATIC PERSONNEL. ALTHOUGH CUMBERSOME TO USE AND DIFFICULT TO REPLACE, THE COUPONS PROVIDED POINT-OF-SALE TAX RELIEF SIMILAR TO THE U.S. TAX CARD SYSTEM. LAST DECEMBER, THE U.S. MISSION ALSO WAS RECEIVING REGULAR REFUNDS FOR TAXES ALREADY PAID, BOTH FOR PERSONAL AND OFFICIAL PURCHASES. DS/OFM RESTORED THE HONDURAN TAX CARDS BASED ON THE EMBASSY'S RECOMMENDATION.

4. RESIDUAL BUREAUCRACY: THE NEW TAX RELIEF SYSTEMS IN HONDURAS REQUIRE NEW, MULTI-STEP PROCEDURES ON THE PART OF THE EMBASSY AND ITS ELIGIBLE EMPLOYEES. FOR OFFICIAL PROCUREMENT, THE EMBASSY HAS TO SEND PURCHASE ORDERS TO THE DEI OFFICE FOR PRE-APPROVAL OF A SALES TAX EXEMPTION, INSERTING AN EXTRA STEP INTO AN ALREADY LENGTHY PROCUREMENT PROCESS. FOR LOCAL CASH AND CREDIT CARD PURCHASES, THE EMBASSY HAS TO PAY THE TAX AND SUBMIT A REIMBURSEMENT APPLICATION AFTERWARDS. TAX-EXEMPT INDIVIDUALS ARE ISSUED COUPON BOOKS TO BE USED FOR POINT-OF-SALE TAX DISCOUNTS. BUT COUPONS CAN ONLY BE USED IN CONJUNCTION WITH THE USER'S DIPLOMATIC CARNET, A DOCUMENT THAT TAKES THE FOREIGN MINISTRY 4-5 MONTHS TO PRODUCE. ADDITIONALLY, THE COUPON BOOKS CANNOT BE REPLENISHED UNTIL THE USER SUBMITS ORIGINAL RECEIPTS (ONE FOR EVERY COUPON ALREADY USED) AND A SPREADSHEET DETAILING EACH PURCHASE AND THE AMOUNT OF TAX EXEMPTED.

5. RECENT DEVELOPMENTS: SINCE DECEMBER THERE HAVE BEEN NEW SETBACKS. THE DEI EFFECTIVELY TERMINATED THE PARALLEL

TAX REIMBURSEMENT SYSTEM IN APRIL, LEAVING THE MISSION UNABLE TO OBTAIN AFTER-THE-FACT TAX RELIEF FOR OFFICIAL CREDIT CARD AND PETTY CASH PURCHASES. GIVEN THE TIME IT TAKES TO OBTAIN A DIPLOMATIC CARNET, TERMINATION OF THE REIMBURSEMENT PROGRAM ALSO DEPRIVED NEW ARRIVALS OF SALES TAX RELIEF FOR THE FIRST 4-5 MONTHS OF THEIR TOURS. EMBASSY AND AID OFFICIALS PROTESTED THIS ACTION TO THE MINISTRY OF FOREIGN AFFAIRS, EVENTUALLY OBTAINING A WRITTEN COMMITMENT TO REINSTATE THE REIMBURSEMENT SYSTEM FOR CASH PURCHASES AND NEWCOMERS PENDING ISSUANCE OF DIPLOMATIC IDS. HOWEVER, THE EMBASSY MUST NOW OBTAIN AN INTERIM PERMIT FOR NEWCOMERS TO USE THIS BENEFIT.

16. RECENT DEVELOPMENTS (CONTINUED): IN APRIL THE FINANCE MINISTRY PROPOSED AND THE NATIONAL CONGRESS PASSED ANOTHER NEW TAX LAW. DECRETO 51-2003 IMPOSES SALES TAX ON RENT AND ON SERVICES SUCH AS BANKING, MEDICAL SERVICES, FREIGHT FORWARDING AND SMALL PACKAGE DELIVERY. AS WITH THE JUNE 2002 TAX LAW, NO REIMBURSEMENT SYSTEM FOR DIPLOMATIC MISSIONS WAS CONTEMPLATED AS PART OF THIS NEW LEGISLATION. THE US MISSION WAS SUDDENLY LEFT WITHOUT THE ABILITY TO SEND AND RECEIVE TAX-FREE AIR FREIGHT, FEDEX SHIPMENTS OR TO OBTAIN OTHER SERVICES USING NON-STANDARD PROCUREMENT DOCUMENTS SUCH AS AIRWAY BILLS. ONE AID OFFICER HAD HIS OUTGOING AIR FREIGHT DELAYED BY ONE MONTH WHILE THE EMBASSY FRANTICALLY DEVELOPED A WORK-AROUND WITH THE DEI. WE NOW HAVE A NEW TAX RELIEF SYSTEM IN PLACE, BUT AS ABOVE, IT REQUIRES AN ADDITIONAL STEP -- DEI PRE-APPROVAL OF A BLANKET PURCHASE AGREEMENT FOR ALL SHIPPING TRANSACTIONS.

17. A NEW BOMBSHELL -- CANCELLATION OF GASOLINE TAX RELIEF: IN JUNE, THE FOREIGN MINISTRY NOTIFIED DIPLOMATIC MISSIONS THAT IT WOULD NO LONGER DISCOUNT THE TAX PAID ON GASOLINE, AS IT CONSIDERED THIS AN "INDIRECT TAX". THE AMOUNT IN QUESTION IS OVER 1.05 US DOLLARS PER GALLON, APPROXIMATELY 40 PERCENT OF THE PRICE PAID AT THE PUMP. THE WITHDRAWAL OF THE EMBASSY'S CURRENT GASOLINE TAX DISCOUNT WILL COST THE U.S. MISSION AND ITS MEMBERS MORE THAN 90,000 DOLLARS PER YEAR IN ADDITIONAL GASOLINE CHARGES FOR OFFICIAL AS WELL AS PERSONAL VEHICLES. THE ISSUE INVOLVES USER FEES, AMONG OTHER THINGS FOR HIGHWAY RECONSTRUCTION, AND IS THE SUBJECT OF A SEPARATE MESSAGE FROM POST TO DS/OFM.

18. ANALYSIS AND RECOMMENDATION: IN REF D, THE EMBASSY STATES, "WE HAVE EVERY REASON TO BELIEVE THE MFA AND THE DEI WILL WORK WITH THE DIPLOMATIC COMMUNITY TO IRON OUT THE REMAINING PROBLEMS." IN RETROSPECT, THIS STATEMENT WAS OVERLY OPTIMISTIC AND HAS, THUS FAR, NOT PROVEN TRUE. RATHER THAN IRONING OUT THE REMAINING PROBLEMS, THE HONDURAN GOVERNMENT HAS PUT ADDITIONAL HURDLES IN FRONT OF THE U.S. AND OTHER DIPLOMATIC MISSIONS. NEW BUREAUCRACY HAS ADDED TO THE BURDEN OF SEEKING TAX RELIEF FOR BOTH OFFICIAL AND PERSONAL PURCHASES. THERE IS A GROWING INEQUITY BETWEEN THE TAX TREATMENT OF THE U.S. EMBASSY AND ITS STAFF IN TEGUCIGALPA AND THE TREATMENT OF HONDURAN DIPLOMATS IN THE UNITED STATES, WHO PRESUMABLY ENJOY FULL POINT-OF-SALE TAX DISCOUNTS. IN OUR DISCUSSIONS WITH THE HONDURAN GOVERNMENT WE NOW DEAL FROM A POSITION OF RELATIVE WEAKNESS. POST ASKS DS/OFM TO LOOK FOR WAYS OF READJUSTING ITS TREATMENT OF THE HONDURAN MISSION TO ESTABLISH GREATER EQUITY BETWEEN THE TWO GOVERNMENTS.

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